IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

OP.No. 14660 of 1999(T)

PETITIONER:

K.C.CHELLAPPAN, PD TEACHER,
GOVT. L.P.SCHOOL, THATTANCHERIMALA,
MALAPPURAM.

BY ADV. SRI.J.JULIAN XAVIER

RESPONDENTS:
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1. **STATE OF KERALA, REP.BY ITS SECRETARY,**
   GENERAL EDUCATION, GOVT. OF KERALA,
   THIRUVANANTHAPURAM.

2. **THE DEPUTY DIRECTOR OF EDUCATION,**
   MALAPPURAM.

BY GOVERNMENT PLEADER SMT.T.B.RAMANI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 11/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

tss

OP. 14660/1999

ORDER ON CMP. NO./23749/1999 IN OP. 14660/1999

DISMISSED

11.09.2007 SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE JUDGMENT DT. 19.3.98 IN OP. 5360/98.

EXT.P2:- COPY OF THE JUDGMENT DT. 7.4.97 IN OP.5170/97.

EXT.P3:- COPY OF THE REPRESENTATION DT. 12.2.98.

EXT.P4:- COPY OF THE ORDER NO.A2-19213/98 DT. 17.7.98 OF THE 2ND RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

tss

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.14660 OF 1999

Dated this the 11th day of September, 2007

JUDGMENT

Learned Government Pleader appears for the second respondent. Service complete.

2. In 1998, the petitioner claimed to have filed Ext.P3 representation stating that one of his juniors, N.C.Puravathu, was promoted as Headmaster on 20.7.1981 and therefore, he may be given retrospective promotion with effect from the date of promotion of that junior. The impugned order has been issued by the Deputy Director stating that the petitioner had never made any such claim before he made Ext.P3 representation and while that was pending consideration, he rushed to this Court and obtained direction in O.P.No.5170/97 for consideration of the representation. Though Ext.P1 judgment has been issued directing consideration of the issue in the light of Ext.P2, the impugned Ext.P4 order has been issued refusing retrospective promotion.

3. In opposition to the writ petition claiming retrospective promotion, it is the uncontroverted plea of the respondents that before Ext.P3, the petitioner had never been any claim for promotion and that having entered service as a P.D. Teacher on 31.1.1977, as claimed by him, he would be eligible for promotion as primary school Headmaster only on 31.1.1992. Even then, he moved Ext.P3 representation only on 12.2.1998 alleging that his junior had been promoted way back in 1981. If erroneous promotion had been granted overlooking the seniority of the petitioner, he had slept over his claim from 1981 to 1998. I do not find any jurisdictional error or statutory infirmity in the refusal of the respondents to extend to the petitioner retrospective promotion. In the circumstances of this case, it is not out of place to notice the contention of the respondents that the present attempt of the petitioner is only to get the financial benefits of a retrospective promotion without working in such a post.

In the aforesaid circumstances, I do not find any ground to interfere with the impugned direction. The writ petition fails. The same is accordingly dismissed. No costs.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.14660 OF 1999

JUDGMENT

11th SEPTEMBER, 2007.

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